



Federal Communications Commission
Washington, D.C. 20554

January 23, 2007

DA 07-147

Mr. Ted S. Henry
President,
National Science & Technology Network, Inc.
2050 South Bundy Drive
Los Angeles, CA 90025

Re: Toyota Logistics Services Station WQBI769
File Number 0001897005

Dear Mr. Henry:

This letter responds to the informal petition filed by National Science & Technology Network, Inc. (NSTN) on November 2, 2004. NSTN requested that frequency pair 452/457.300 MHz be deleted from the license of Toyota Logistics Services (Toyota) for Station WQBI769, San Diego, California.¹ For the reasons set forth below, we deny the informal petition. Nonetheless, we encourage the Personal Communications Industry Association (PCIA), the frequency coordinator involved here, to consider whether there are alternative frequencies available that would alleviate the potential for harmful interference between Toyota's Station WQBI769 and NSTN's Station WPMJ456.

In 1998, NSTN was granted a license to operate Industrial/Business Pool Station WPMJ456, Glendale, California on a centralized trunked (station class code FB8) basis using, *inter alia*, frequency pair 452/457.300 MHz in Santiago Peak, California. In 2003, however, the Public Safety and Private Wireless Division modified the license to permit only decentralized trunking (station class code FB6).² On July 2, 2003, NSTN filed a petition for reconsideration of that decision. While NSTN's petition for reconsideration was pending, Toyota was granted a license on October 16, 2004 to operate Station WQBI769 using, *inter alia*, frequency pair 452/457.300 MHz. On November 2, 2004, NSTN submitted the informal petition, arguing that the FB8 status of Station WPMJ456 should be protected while NSTN's petition for reconsideration was pending, and that Toyota's utilization of frequency pair 452/457.300 MHz would cause harmful interference to Station WPMJ456.³ NSTN requested that frequency pair 452/457.300 MHz be deleted from Toyota's license.⁴ On August 7, 2006, the Public Safety and

¹ See Letter dated Nov. 2, 2004 from Ted S. Henry, President, National Science & Technology Network, Inc. to Tracy Simmons, FCC-Gettysburg (Informal Petition).

² See National Science and Technology Network, Inc., *Order of Modification*, 18 FCC Rcd 11321 (WTB PSPWD 2003).

³ See Informal Petition at 1.

⁴ *Id.*

Critical Infrastructure Division⁵ denied NSTN's petition for reconsideration, and affirmed the modification of the license for Station WPMJ456 from FB8 to FB6.⁶

NSTN's instant informal petition was premised on Station WPMJ456 having FB8 status, in which case Toyota would have been required to obtain NSTN's consent for its co-channel operations.⁷ Because Station WPMJ456 has FB6 status, however, such consent was not required.⁸ Thus, we conclude that the application was properly granted. Moreover, frequency pair 452/457.300 MHz is available for shared use and will not be assigned for the exclusive use of any licensee.⁹ We expect the licensees to cooperate in the use of this frequency pair.¹⁰ Consequently, we deny the informal petition.

Nonetheless, we recognize the potential for interference between co-channel stations within sixty miles of each other, particularly given that, according to NSTN, Station WQBI769 transmits continuous data in a polling mode.¹¹ Therefore, we encourage PCIA,¹² the frequency coordinator involved here, to investigate whether Toyota can use alternate frequencies that would alleviate the potential for harmful interference.

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the Informal Petition filed on November 2, 2004 by National Science & Technology Network, Inc. IS DENIED.

⁵ The Commission reorganized the Wireless Telecommunications Bureau effective November 13, 2003, and the relevant duties of the Public Safety and Private Wireless Division were assumed by the Public Safety and Critical Infrastructure Division. *See* Reorganization of the Wireless Telecommunications Bureau, *Order*, 18 FCC Rcd 25414, 25414 ¶ 2 (2003). Pursuant to a Commission reorganization effective September 25, 2006, certain duties of the Public Safety and Critical Infrastructure Division were assumed by the Mobility Division. *See* Establishment of the Public Safety and Homeland Security Bureau, *Order*, 21 FCC Rcd 10867 (2006).

⁶ *See* National Science and Technology Network, Inc., *Order on Reconsideration*, 21 FCC Rcd 9050 (WTB PSCID 2006). Moreover, even if the Division had not issued a decision, the pending petition for reconsideration did not protect Station WPMJ456's FB8 status, because the filing of a petition for reconsideration does not stay or postpone Commission action. *See* 47 C.F.R. § 1.106(n).

⁷ *See* 47 C.F.R. § 90.187(b)(2)(v).

⁸ *See* National Science and Technology Network, Inc., *Letter*, 21 FCC Rcd 14381 (WTB MD 2006).

⁹ *See* C.F.R. § 90.173(a).

¹⁰ *See* C.F.R. § 90.173(b).

¹¹ *See* Informal Petition at 1.

¹² PCIA coordinated Toyota's application. *See* Frequency coordination number PC20042730014.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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